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Remarks

Claims 1 to 20 are in this application.

Claims 5 to 10, 16 and 20 have been indicated as having allowable subject matter.

The election of the species of Fig. 2 is affirmed.

Claim 15 and 17 have been amended to avoid any ambiguity and are believed to be in conformance with the provisions of 35 USC 112.

Reconsideration of the rejection of claims 1, 2, 4, 13, 15, 17 and 18 is requested.

Claim 1 has been rejected as being anticipated by Fischer. Issue is taken in this respect.

The Examiner alleges that it is inherent that the aprons 77' and 76' of the Fig. 7 liquid distributor of Fischer provide the capability of throttling the liquid. However, the Examiner has not presented any basis in fact and/or technical reasoning to reasonably support the determination that the allegedly inherent characteristic necessarily flows from the teachings of Fischer. "In relying upon the theory of inherency, the examiner must provide a basis in fact and/or technical reasoning to reasonably support the determination that the allegedly inherent characteristic necessarily flows from the teachings of the applied prior art." *Ex parte Levy*, 17 USPQ2d 1461, 1464 (Bd. Pat. App. & Inter. 1990) (emphasis in original)

"The identical invention must be shown in as complete detail as is contained in the ... claim." *Richardson v. Suzuki Motor Co.*, 868 F.2d 1226, 1236, 9 USPQ2d 1913, 1920 (Fed. Cir. 1989).

The fact that a certain result or characteristic may occur or be present in the prior art is not sufficient to establish the inherency of that result or characteristic. *In re*

Rijckaert, 9 F.3d 1531, 1534, 28 USPQ2d 1955, 1957 (Fed. Cir. 1993) (reversed rejection because inherency was based on what would result due to optimization of conditions, not what was necessarily present in the prior art); *In re Oelrich*, 666 F.2d 578, 581-82, 212 USPQ 323, 326 (CCPA 1981). "To establish inherency, the extrinsic evidence 'must make clear that the missing descriptive matter is necessarily present in the thing described in the reference, and that it would be so recognized by persons of ordinary skill. Inherency, however, may not be established by probabilities or possibilities. The mere fact that a certain thing may result from a given set of circumstances is not sufficient.' " *In re Robertson*, 169 F.3d 743, 745, 49 USPQ2d 1949, 1950-51 (Fed. Cir. 1999) (citations omitted)

Fig. 7 shows the aprons 71', 76', to be widely spaced from the screen 6 at the drip edge 62. Accordingly, by inspection, it is clear that the tapered ends of the aprons 71', 76' cannot throttle a flow of liquid that is passing downwardly along the surface of the screen 6.

Claim 1 requires a liquid distributor to comprise, *inter alia*, at least one gutter disposed below said channel with said guide means passing therethrough. . . ". As can be seen in Fig. 7 of Fischer, the screen 6 does not pass through the plane of the aprons 71', 76'. For this reason alone, a rejection of claim 1 as being anticipated by Fischer is not warranted pursuant to the provisions of 35 USC 102.

Claim 1 further requires the gutter to have "a throttle means for distributing the liquid descending on said guide means by means of a hydrodynamic balance". The aprons 71', 76' of Fischer do not constitute a throttle means and do not distribute liquid descending on the screen 6 by any means much less by means of a hydrodynamic

balance. For this reason alone, a rejection of claim 1 as being anticipated by Fischer is not warranted pursuant to the provisions of 35 USC 102.

Claims 2, 4 and 13 depend from claim 1 and are believed to be allowable for similar reasons.

Claim 15 requires, *inter alia*, "a secondary distribution stage. . . having a plurality of gutters, each said gutter. . . having a throttle means for distributing the liquid descending on said guide means by means of a hydrodynamic balance". As noted above with respect to claim 1, the aprons 71', 76' of Fischer do not and are not capable of distributing the liquid descending on the screen 6 by means of a hydrodynamic balance or otherwise. Accordingly, a rejection of claim 15 as being anticipated by Fischer is not warranted pursuant to the provisions of 35 USC 102.

Claim 17 contains recitations similar to claim 1 and is believed to be allowable for similar reasons as above with respect to claim 1.

Claim 18 depends from claim 17 and is believed to be allowable for similar reasons.

Claim 1 is generic to all of the embodiments of the application. Accordingly, claims 3, 4, 11, 12 and 14 are believed to be allowable in this application.

Claim 17 is generic to the embodiments of Figs. 2 and 3. Accordingly, with the allowance of claim 17, claim 19 is also allowable in this application.

With the allowance of claims 1 and 17, the requirement for restriction should be withdrawn.

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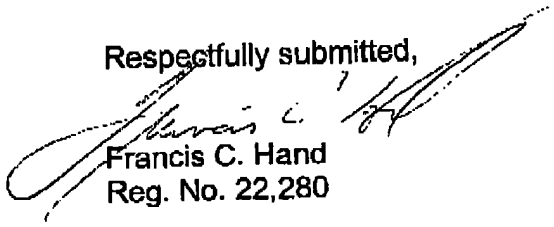
The application is believed to be in condition for allowance and such is respectfully requested.

Respectfully submitted,



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